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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,534	04/14/2004	Tsun-Chi Liao	2450-0671PUS1	4457
2292 7590 02/23/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER QIN, JIANCHUN	
			ART UNIT	PAPER NUMBER
			2837	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	02/23/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/23/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/823,534

Applicant(s)

LIAO, TSUN-CHI

Examiner

Jianchun Qin

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION:

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/14/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanec (U. S. Pat. No. 5,727,584) in view of Yanagisawa (U. S. Pat. No. 5881981).

Regarding claim 1, Stanec discloses an elastomeric spring installed to the tip of a stand (Figs. 2, 6 and 7), comprising: a base (10, 10'), being made of an elastic material (Fig. 4; col. 2, lines 36-38) and having a space mode substantially in an axial symmetry (Fig. 6); an installation space (Figs. 2 and 7, the cup-shaped space having conical wall where the basket 2 or 2' is positioned, and the bore 7 or 7') disposed at the top of said base; a bottom surface (the bottom surface of 7 or 7'), disposed in said installation space, for inserting and securing the tip of said stand (Figs. 2, 5 and 7); a protruded middle section, extended outwardly from a lower section of said base (Fig. 6 and 7), and said protruded middle section having a hollow hemispherical member (15 or 15') therein (Fig. 7; cols. 2-3, lines 66-7); a circular opening, disposed at the bottom of said base and interconnected with said hemispherical member (Figs. 2, 5 and 7; col. 3, lines 24-

28); and a shell wall, defined by said protruded middle section and said hollow hemispherical member (Fig. 7; cols. 2-3, lines 66-7).

Stanec does not mention expressly: said elastomeric spring is installed to an end of a musical instrument stand.

Yanagisawa teaches installing an elastomeric spring to an end of a musical instrument stand (Spec. page 1, lines 7-25 and page 2, lines 1-5).

In view of the teaching of Yanagisawa, one having ordinary skill in the art would be able to merely apply the invention of Stanec to an end of a musical instrument stand in order to provide a stand which can provide a steady support for use on both soft and hard surfaces (Stanec, Abstract and col. 1, lines 31-33). It has been held that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Regarding claim 2, Stanec discloses: wherein said installation space has a shape designed according to the appearance of the tip of the stand (Figs. 2 and 7).

Stanec does not mention expressly: said stand is a musical instrument stand.

Yanagisawa teaches installing an elastomeric spring to an end of a musical instrument stand (Spec. page 1, lines 7-25 and page 2, lines 1-5).

In view of the teaching of Yanagisawa, one having ordinary skill in the art would be able to merely apply the invention of Stanec to an end of a musical instrument stand in order to provide a stand which can provide a steady support for use on both soft and hard surfaces (Stanec, Abstract and col. 1, lines 31-33). The mere application of a known technique to a specific instance by those skilled in the art would have been obvious.

Regarding claim 3, Stanec discloses: wherein said installation space has a size slightly smaller than the external diameter of said tip of the stand, thereby said stand is pressed tightly into said installation space by the elasticity of said base (Figs. 2, 5 and 7; col. 2, lines 27-31).

Regarding claim 4, Stanec does not mention expressly: wherein said elastic material is rubber.

Yanagisawa teaches: wherein said elastic material is rubber (col. 1, lines 17-22).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Stanec to use rubber material to make the elastomeric spring in order to make the elastomeric spring more cost-effective and easy to manufacture.

Contact Information

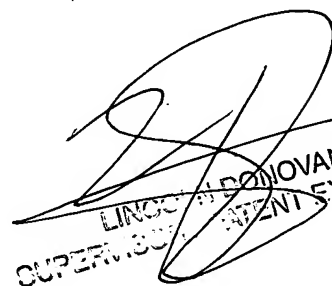
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianchun Qin whose telephone number is (571) 272-5981. The examiner can normally be reached on 8am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jianchun Qin
Examiner
Art Unit 2837

JQ 


LINCOLN DONOVAN
SUPERVISOR
PATENT EXAMINER